

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

IN RE:

HERMES TORRES

CASE NO. 6:19-bk-05796-KSJ
CHAPTER 7

Debtor(s).

CREDITOR'S RESPONSE TO TRUSTEE'S MOTION TO SELL

2100 PAINTER LN, KISSIMMEE, FL 34741-7819

Creditor, WELLS FARGO BANK, N.A., by and through its undersigned attorney, files its Response to the Trustee's Motion to Sell [DE-32] and as grounds thereto states as follows:

1. On September 2, 2019, HERMES TORRES, filed a voluntary petition pursuant to 7 of the Bankruptcy Code.

2. Secured Creditor has an interest in the Debtor's real property located at 2100 PAINTER LN, KISSIMMEE, FL 34741-7819 (the "Property"), which is more particularly described as:

LOT 104, CYPRESS RESERVE VILLAS A REPLAT, ACCORDING TO PLAT THEREOF AS RECORDED IN PLAT BOOK 18, PAGES 165 THRU 170 INCLUSIVE, OF THE PUBLIC RECORDS OF OSCEOLA COUNTY, FLORIDA.

3. Further, and more specifically, Secured Creditor holds an interest in the Property by virtue of that certain mortgage, executed by the Debtors and property recorded on August 19, 2015 in the Official Records of Osceola County, Florida at Book 4829 at Page 775.

4. On June 22, 2021, the Trustee filed a Motion to Sale [DE-32] ("Motion") requesting permission from the Court to sell the Property.

5. The Creditor has approved the Short Sale however approval expires on June 30, 2021.

6. Secured Creditor does not necessarily oppose the granting of the Motion to Sell, but respectfully requests that: (a) any order provide that secured creditor will be paid in full subject to a proper payoff; (b) the Trustee's sale of the Property be explicitly conditioned on obtaining Secured Creditor's written consent at or prior to closing; (c) that all proceeds from the sale(if consented to by Secured Creditor), less realtor fees and typical and customary closing costs, shall attach to Secured Creditor's lien at the time of the sale and shall not become property of the Debtors' bankruptcy estate nor be subject to distribution by the trustee; and (d) deadline for the sale closing and receipt of funds

should be within 90 days from the date of the order.

7. Absent the aforementioned conditions, Secured Creditor does not consent to the sale of the Property for an amount that is less than the entire amount of its lien. Secured Creditor avers that, pursuant to § 363(f), the Trustee may not conduct a “short sale” of the Property without Secured Creditor’s express consent.

8. Secured Creator reserves the right to supplement this Response as necessary.

WHEREFORE, Secured Creditor respectfully requests that this Honorable Court grant the Motion to Sell under the aforementioned conditions and restrictions or, in the alternative, deny the Trustee’s Motion.

eXL Legal, PLLC
Alejandro Martinez-Maldonado, Esq.
12425 28th Street North, Suite 200
St. Petersburg, FL 33716
Telephone No. (727) 536-4911
Email Address: bk@xllegal.com
Attorney for the Movant

By: /s/ Alejandro G. Martinez-Maldonado

Alejandro Martinez-Maldonado
FLBN 108112

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT a true and correct copy of the foregoing was furnished on June 24, 2021 , by U.S. Mail and/or electronic mail via CM/ECF to:

ANDREW C. BARON, ESQ.
1803 EAST KALEY STREET
ORLANDO, FL 32806

ARVIND MAHENDRU
5703 RED BUG LAKE ROAD
SUITE 284
WINTER SPRINGS, FL 32708

UNITED STATES TRUSTEE - ORL7/13
GEORGE C. YOUNG FEDERAL BUILDING
400 WEST WASHINGTON STREET, SUITE 1100
ORLANDO, FL 32801

The parties identified below were served on June 24, 2021 by U.S. Mail.

HERMES TORRES
13751 HUNTWICK DRIVE
ORLANDO, FL 32837

eXL Legal, PLLC
Alejandro Martinez-Maldonado, Esq.
12425 28th Street North, Suite 200
St. Petersburg, FL 33716
Telephone No. (727) 536-4911
Email Address: bk@exllegal.com
Attorney for the Movant

By: /s/ Alejandro G. Martinez-Maldonado

Alejandro Martinez-Maldonado
FLBN 108112